

**THE LANCASHIRE COUNTY COUNCIL UPGRADING OF WRIGHTINGTON FOOTPATH
21 TO BRIDLEWAY BETWEEN MOSS LANE AND MOSSY LEA ROAD, WRIGHTINGTON,
WEST LANCASHIRE BOROUGH**

DEFINITIVE MAP MODIFICATION ORDER 2016

Comments on Objections received:

The Objections

Copies of the sixteen objections received to the making of the Order are contained within the List of Documents (Document 4) and below is a summary of the grounds of the objections (*italics*) and our response (*indented*):

Objection 1 – Carl Taulty of 38 Knightingshill Crescent, Wigan, Lancashire WN6 7EJ:

Fears adverse effects if bridleway status confirmed, potential damage to surface and possible conflict for those passing horse riders on foot.

The Order Making Authority ("the OMA") is not seeking to create new public rights, but to record bridleway rights deemed already to exist. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Any potential future damage to the surface or conflict which may arise as a consequence of the confirmation of the Order would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Objection 2 – Gareth Winnard of 176A Wood Lane, Heskin, Chorley PR7 5NS:

Raises safety concerns and fears adverse effect on users of the route on foot.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Any potential future difficulties which may arise as a consequence of the confirmation of the Order would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Objection 3 – John Winnard MBE of 48 Manse Avenue, Wrightington WN6 9RP:

States that there has been no express dedication of the route. Landowners have stopped horse riders in the past due dangerous incidents. Mentions barriers having

been erected to prevent horse rider usage, signs erected by Lancashire County Council, discussions with the County Council in 2012-2013 about recording the route as a bridleway, health and safety concerns and queries whether due process has been followed.

The objector refers to actively stopping horses using the Order route and erecting a barrier for several months due to concerns over safety. The objector does not provide further details relating to the date(s) of any challenge and none of the users submitting evidence refer to being stopped or challenged prior to 2014. It is acknowledged that a barrier was erected in 2015 which prevented horses using the Order route, but this was after the user evidence had been submitted and after the twenty year period relied on by the OMA.

The OMA had signposted the Order route as a public footpath because that is what the route is currently recorded as on the Definitive Map. In addition, it is acknowledged that additional signage had been erected stating that use of a footpath on horseback and with unauthorised vehicles was not allowed. This signage is some that is occasionally erected by the OMA and it appears that it had been done so in response to concerns about use of reports of horses using a route - recorded as a Public Footpath in 2011.

Further investigations have also found that the Order route had been identified as a good, safe route for horse riders and cyclists as part of work carried out by the OMA's Countryside Service in relation to the implementation of the Rights of Way Improvement Plan.

The work of the Countryside Service was separate to work carried out by the Public Rights of Way Team at that time and it is understood that the Order route was identified as a route being used by horse riders which provided a good safe link that it was hoped would eventually form part of a feeder route to the West Pennine Moors.

As such, it is understood that the OMA (acting in a different capacity) approached persons that they understood to have an interest in the land crossed by the Order route about entering into an agreement to record public bridleway rights and to carry out work to provide a wider surfaced route. Records suggest that this was done in 2011 -2012, but did not progress and it appears to have prompted the user evidence being collected and submitted on the basis that the route was already a public bridleway by virtue of use. There is no indication that users of the Order route were aware of any actual challenge to their use at that time – or that public use on horseback had stopped or been prevented.

The OMA note that the original UEFs submitted were completed between 2013 and 2014 although only submitted to the OMA in 2014 with no record of use on horseback being challenged for over 20 years until after that date.

Health and Safety concerns relating to use of the Order route may be relevant in that more than one objector refers to there being use of the Order route by horses. As such, this provides confirmation of use of the Order route in support of the user evidence submitted. There is nothing to suggest that the Order route was not wide enough for horses to use it and there are examples of fenced off bridleways elsewhere in the County of a similar width to the Order route. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Any potential future difficulties or concerns about multi use of the route would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Objection 4 – Martin Egan of 19 Glebeland, Culcheth, Warrington WA34 4DX:

Raised safety concerns regarding pedestrians meeting horses (and riders) on the route.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Should the Order be confirmed, any concerns relating to multi user use of the route would need to be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Objection 5 – Jackie Cooke & Alan Cooke of 8 Mossy Lea Fold, Wrightington, Wigan WN6 9RD:

Challenged whether presumed dedication tests are satisfied. Denies any intention to dedicate the route as a bridleway. Mentions footpath notices at either ends of the route. Query whether the user evidence is reliable, raise safety concerns and queries whether due process has been followed.

Many of the points raised by Mr and Mrs Cooke are addressed in relation to the objection made by Mr John Winnard above.

The OMA consider taking all the relevant evidence into account, on balance dedication as a bridleway under S.31 could be presumed and the footpath under consideration should be recorded as having bridleway status. Use of the

Order route appeared to be sufficiently frequent, and users did not report any instances of being stopped or turned back from using the Order route hence use of the route has been without stealth, force or secrecy. No evidence has been presented to suggest landowners stopped or prevented people from using the Order route on horseback during the 20 years under consideration.

The user evidence submitted is available to the Planning Inspector and should an Inquiry be held users of the route will be able to provide verbal evidence relating to that use.

The OMA can confirm that all procedural requirements in investigating this matter and in making and advertising the Order have been completed and the due processes have been completed.

Objection 6 – Alex Hardicker of 92 Shevington Moor, Standish WN6 0SE:

Has known the route as a footpath and queries user evidence. States the route is not wide enough. Raises safety concerns and mentions footpath notices at either end.

The OMA has no reason to believe that the user evidence has been fabricated and/or exaggerated. However, this evidence can be tested and considered by the Inspector.

The Public Footpath signs erected at either end of the Order route were erected in accordance with the OMA's duty to signpost public rights of way recorded on the Definitive Map. Whilst the Order route was recorded as a public footpath and signed as such the user evidence submitted suggests that members of the public did not consider that these signs constituted a challenge to their use.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. Under the terms of the Wildlife and Countryside Act 1981, safety concerns about the future use of the Order route by horses, cannot be considered a reason not to confirm the Order.

Objection 7 – Betty Calderbank of 6 Tunley Lane, Wrightington WN6 9RH:

Has known the route as a footpath. Owners have challenged horse riders. The route is unsuitable and raises safety concerns.

The information provided by the Objector regarding ownership and previous challenges to the use of the Order route is not disputed. The OMA has made the Order based on the submission of more modern user evidence detailing unchallenged use of the route from at least the 1990s through to 2014.

None of the users submitting evidence refer to being challenged or given permission to use the Order route although, this evidence can be tested and considered by the Inspector.

Issues regarding the suitability of a route for horse riding and cycling are relevant in so far as considering whether a route could have been used by the public as claimed. However, in this case it appears that the Order route was capable of being used on horseback and the OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the route on foot is clearly important the purpose of the Order is to record what public rights exist. and this part of the objection cannot be considered a reason not to confirm the Order.

Objection 8 – Dr Ian Carney & Mrs P M Carney of 4 Mossy Lea Fold, Wigan WN6 9RD:

Mention danger, possible unsafe conditions, the route being too narrow with bends, restricted headroom and poor visibility. Fears surface damage and potential user conflict. Expresses concerns about due process.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. The objector acknowledges seeing horses using the Order route in the past. The suitability of the Order route as a bridleway is not something that can be considered other than whether such things as the width, surface, location, available headroom etc. actually prevented use of the route that has been claimed. If the Order is confirmed any issues concerning multi use of the Order route could be addressed by appropriate management and maintenance.

With regards to concerns expressed in relation to a Member of Wrightington Parish Council also being the proprietor of a local riding school it is noted that the Parish Council supported the investigation into whether public rights existed by submitting user evidence. The decision to make the order was made by the County Council's Regulatory Committee based on the evidence submitted and the Parish Council were not involved in that decision.

Objection 9 – Mr A Porter of Tree Tops, Moss Lane, Wrightington, Wigan WN6 9PB:

Has used the Order route in the past and refers to horses only using it in more recent years. Mentions its narrowness, blind corners. Considers the route would be dangerous and unsuitable. Refers to potential user conflict. People might be deterred from using the footpath.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the Order route

on foot is clearly important the purpose of the Order is to record what public rights exist. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

Objection 10 – Robert Cooke of 84 Shevington Moor, Standish, Wigan, Lancashire WN6 0SE:

States that it was always a footpath. Indicates that it would be unsuitable, too narrow and raises safety concerns. Refers also to the Lancashire County Council signs referring to the path as a Public Footpath only.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the suitability of the route and concerns over the safety of the public using the Order route on foot are clearly important the purpose of the Order is to record what public rights already exist.

The signs erected by the OMA were done so as a consequence of a statutory duty to signpost public rights of way recorded on the Definitive Map and Statement. The Order route is currently recorded as a public footpath – hence being signed as one. Additional signs at the ends of the route were erected by the OMA in 2011. It is understood that the signs were erected as a result of concerns expressed over the surface of the Order route being damaged but were not erected by a landowner as a challenge to public use on horseback. The Inspector has been invited to consider the implications of these signs and the body of user evidence presented which goes back at least 20 years prior to the erection of the notices.

Objection 11 – Tim Calderbank of Tunley Lane Farm, Tunley Lane, Wrightington, Wigan WN6 9RH:

Would be dangerous, refers to blind corners and fears conflicts between users. Says riders have been challenged and questions user evidence reliability. Seeks an oral hearing.

The objector refers to previous challenges to use of the Order route which are not disputed. Dates relating to such challenges are not given but are considered to have been predating the early 1990s.

None of the users submitting evidence refer to being challenged or given permission to use the Order route although, this evidence can be tested and considered by the Inspector.

Objection 12 – Mr & Mrs P Johnson of The White House, Moss Lane, Wrightington, Wigan WN6 6PB:

Refer to the route's widths and bends. Fears conflict between users. Consider a bridleway would be dangerous. Mention footpath notices and concerned that future footpath usage would be deterred. Mentions that horses had only started to use the Order route 'in the last few years'.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist and as such the suitability of the Order route as a bridleway can only be considered in respect of whether it was actually used by the public in the past. Whilst the safety of the public using the Order route on foot is clearly important the purpose of the Order is to record what public rights exist. If the Order is confirmed any concerns regarding multi user of the Order route could be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

The erection of public footpath signposts by the OMA at either end of the route was a legal requirement because the Order route is currently recorded as a public footpath on the Definitive Map. Additional OMA notices stating that the Order route should not be used by horses appear to have been erected in December 2010 or January 2011.

Objection 13 – Mr & Mrs A J Pegg of 8 Broadhurst Lane, Wrightington, Wigan WN6 6RX:

State a bridleway would be dangerous and question the route's suitability as a bridleway. The route is insufficiently wide and question due process.

The OMA is not seeking to create new public rights, but to record rights deemed already to exist and as such the suitability of the Order route as a bridleway can only be considered in respect of whether it was actually used by the public in the past. Whilst the safety of the public using the Order route on foot is clearly important the purpose of the Order is to record what public rights exist. If the Order is confirmed, any concerns regarding multiuser of the Order route could be addressed by appropriate management and maintenance. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

With regards to comments that the Chair of the Parish Council is also the owner of a local riding school this is not a matter that had a bearing on the OMAs decision to make an Order. The OMA carried out a detailed investigation when the user evidence was submitted and the County Council Regulatory Committee made the decision to make the Order and to promote it to confirmation based on all available evidence.

Objection 14 – Mr Antony Winnard (no address provided)

Mentions dangers in the event of the route being designated a bridleway, inadequate width and health and safety concerns.

The OMA are not seeking to create new public rights, but to record public rights deemed already to exist. As such issues regarding the width of the Order route and suitability of the Order route, whilst important issues regarding the future use or management of the Order route are not relevant to the making or confirmation of the Order.

A number of objectors have expressed concerns about the width of the route and safety of users and such management issues can be considered with regards to the future management of the route if the Order is confirmed.

Objection 15 – E Lloyd of View, Course Lane, Newburgh, Parbold, Lancashire

Mentions widths, bends, dangers and conflicts between users. Refers to the footpath Notices and unsuitability of the route.

As already detailed above, the OMA is not seeking to create new public rights, but to record rights deemed already to exist. Whilst the safety of the public using the Order route on foot is clearly important the purpose of the Order is to record what public rights exist. Under the terms of the Wildlife and Countryside Act 1981, this objection cannot be considered a reason not to confirm the Order.

A number of objectors have expressed concerns about the width of the route and safety of users and such management issues can be considered with regards to the future management of the route if the Order is confirmed.

The notices erected at either end of the Order route by the OMA stating that horses were not allowed to use the route appear to have been erected as a consequence of concerns expressed about horses damaging the surface of the Order route (which was recorded as a public footpath). The notices were not erected by a landowner and as such did not indicate that any of the landowners were challenging use of the Order route by horses at that time. The fact that the notices were erected supports the user evidence submitted in that the Order route was being used at the time.

Objection 16 – Florence Derbyshire of 1 Forest Drive, Shevington Moor, Standish WN6 0SG

Mentions the route's widths and associated dangers. Concerned about possible damage to the route's surface.

The OMA understand the objectors concerns regarding the width of part of the Order route and potential damage to the surface of the path if it were to be used heavily by horse riders or cyclists in the future. However, the OMA are not seeking to create new public rights but to record public rights deemed already to exist. As such issues regarding the width of the Order route, its suitability, and potential damage to its surface whilst important issues regarding its future use or management are not necessarily relevant to the making or confirmation of the Order.

Should the Order be confirmed concerns about the width, overhanging and surface vegetation and any damage to the surface of the path can be considered with regards to the future management of the Order route.

Conclusion

The OMA submits that the objections received do not in any way undermine the evidence that the Order route is, on balance, already a bridleway in law, and respectfully requests that the Secretary of State confirms the Order subject to the request to modify the wording the Order and the inclusion of the letter 'G' on the Order Plan (as detailed in the OMA's Statement of Case.)